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EXCEPTIVE ORDER

PROHIBITIONS ON VESSELS ENGAGED IN TRADE WITH CUBA

WHEREAS the existence of a national emergency has heretofore been proclaimed because of the forces of aggression which Sino-Soviet Communism has loosed upon the world;

WHEREAS the security of the United States is endangered by reason of disturbances of the international relations of the United States caused by the attempt of Sino-Soviet Communism to convert Cuba into an armed base for Communist subversion and penetration of the Americas; and

WHEREAS shipments of arms and other goods to Cuba by vessels of the free world have the effect of supporting the hostile efforts of Sino-Soviet Communism in Cuba:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including the Trading with the Enemy Act, as amended (50 U.S.C. App. 1 et seq.), the Espionage Act, as amended (50 U.S.C. 191 et seq.), and the Defense Production Act of 1950, as amended (50 U.S.C. App. 2071 et seq.), and as President of the United States, it is hereby ordered as follows:

SECTION 1. CLOSING OF UNITED STATES PORTS TO VESSELS OF COMMUNISM WITH VESSELS SHIPPING ARMS TO CUBA.

No vessel shall enter any port of the United States if it is registered under the laws of a country engaged in hostilities against the United States.

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY: DATE 3-24-88
() RELEASE () DECLASSIFY
() EXCISE () DECLASSIFY in PART
() DENY () Non-responsive info.
FOI, EO or PA exemptions

TB authority to:
() CLASSIFY as _____, OADR
() DOWNGRADE TS to () S or () G, OADR

determined that vessels registered under the laws of such country are or have been engaged in the shipment of weapons of war, munitions, or military equipment to Cuba, until such time as the President determines (1) that vessels registered under the laws of such country are no longer engaged in such shipment, and (2) that the exclusion of such vessels from any port of the United States is no longer in the national interest.

SECTION 2. CLOSING OF UNITED STATES PORTS TO VESSELS CARRYING GOODS BETWEEN SINO-SOVIET BLOC AND CUBA.

(a) No vessel shall enter any port of the United States if it is carrying, or since last calling at a port east of 20° west longitude or west of 160° longitude has carried, any material, commodity, or cargo of any kind originating in a country or area controlled by Mao-Soviet Communism and destined for Cuba, or originating in Cuba and destined for a country or area controlled by Sino-Soviet Communism.

(b) No vessel shall enter any port of the United States if, before calling at a port east of 20° west longitude or west of 160° longitude, it will take on any material, commodity, or cargo of any kind originating in Cuba and destined for any country or area controlled by Sino-Soviet Communism.

SECTION 3. PROHIBITION AGAINST CARRIAGE OF CUBAN GOODS BY UNITED STATES-FLAG VESSELS AND UNITED STATES-OWNED VESSELS.

(a) No vessel registered under the laws of the United States shall take on and carry any commodity, material, or cargo of any kind originating in or destined for Cuba.

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(b) No vessel registered under the laws of a foreign country but owned or controlled by one or more persons subject to the jurisdiction of the United States, shall take on and carry any commodity, material, or cargo of any kind originating in, or destined for, Cuba.

SECTION 4. PROHIBITION AGAINST UNITED STATES GOVERNMENT-SPONSORED SHIPMENTS ON VESSELS OWNED OR CONTROLLED BY PERSONS WITH VESSELS CARRYING GOODS BETWEEN SINO-SOVIET BLOC AND CUBA.

No vessel shall carry, whether from a port of the United States or from a foreign port, (1) any material, commodity, or cargo of any kind which is directly or indirectly procured, contracted for, donated, exchanged, sold for export, or financed by any department or agency of the United States Government, or (2) any material, commodity, or cargo of any kind the costs of shipment of which are directly or indirectly paid for, or otherwise financed, by any department or agency of the United States Government, if --

(A) such vessel has, on or after the effective date of this Order, taken on and carried any material, commodity, or cargo of any kind originating in a country or area controlled by Sino-Soviet Communism and destined for Cuba, or originating in Cuba and destined for a country or area controlled by Sino-Soviet Communism, or

(B) such vessel is affiliated with a vessel described in paragraph (A) by being owned or controlled by one or more persons, corporations, or associations any one or more of which own or control, or have, on or after the effective date of this Order, owned or

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controlled, any vessel which has, on or after such date, taken on and carried any material, commodity, or cargo of any kind originating in a country or area controlled by Sino-Soviet Communism and destined for Cuba, or originating in Cuba and destined for a country or area controlled by Sino-Soviet Communism.

SECTION 5. ENFORCEMENT BY SECRETARY OF TREASURY.

(a) The Secretary of the Treasury shall, within the scope of his responsibilities under this Order, issue such rules and regulations as he determines to be necessary to secure compliance with sections 1 through 4, and shall make such exceptions to such sections, by license or otherwise, as he determines, after consultation with the Secretary of State, to be in the national interest.

(b) In the case of any vessel entering any port of the United States, the Secretary of the Treasury shall require, as a condition of such entry and under such conditions as he may prescribe, that the owner of such vessel, or, if the vessel has been chartered, that the charterer of such vessel furnish a certificate in such form as the Secretary of the Treasury may specify, to the Collector of Customs at such port, stating that such vessel is eligible to enter such port under the terms of section 2.

(c) In the case of any vessel departing from any port of the United States, the Secretary of the Treasury shall require, as a condition of such departure and under such conditions as he may prescribe, that the owner and the charterer, if any, of such vessel shall furnish

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a certificate, in such form as the Secretary of the Treasury may specify, to the Collector of Customs at such port, stating that such vessel is not carrying any material, commodity, or cargo of any kind described in sections 8(1) and (2), or, if it is carrying any such material, commodity, or cargo, that such vessel is not a vessel described in section 8(a), and that the owner and charterer, if any, separately or together do not own or control, or have not, on or after the effective date of this Order, owned or controlled, any vessel carrying any material, commodity, or cargo of any kind described in section 8(2).

(d) The Secretary of the Treasury (1) shall prohibit any vessel from departing from any port of the United States if such vessel appears on the most recent list published by the Secretary of Commerce under section 8(a), and (2) shall prohibit any vessel from entering any port of the United States if such vessel appears on the most recent list published by the Secretary of Commerce under section 8(e).

(e) The Secretary of the Treasury shall transmit to the Secretary of Commerce all certificates furnished under this section promptly after their receipt by the Collectors of Customs concerned.

SECTION 6. ENFORCEMENT BY AGENCIES AND DEPARTMENTS OF UNITED STATES GOVERNMENT FINANCING SHIPMENTS OF GOODS.

(a)(1) Any department or agency of the United States Government which (A) directly or indirectly procures, contracts for, donates, exchanges, sells for export, or finances any material, commodity, or cargo of any kind shipped from a foreign port on any vessel, or (B)

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which directly or indirectly pays for or otherwise finances, the costs of shipment from a foreign port of any material, commodity, or cargo of any kind shall require that the owner and charterer, if any, of such vessel, furnish a certificate or certificates stating that such vessel is not a vessel described in section 4(1), and that the owner and charterer, if any, separately or together do not own or control, or have not, on or after the effective date of this Order, owned or controlled, any vessel carrying any material, commodity, or cargo of any kind described in section 4(3).

(2) Each department or agency of the United States Government subject to paragraph (1) may make such exceptions to paragraph (1), by license or otherwise, as it determines to be required by the national security.

(3) Each department or agency of the United States Government subject to paragraph (1) shall collect and promptly transmit all information obtained under this section to the Secretary of Commerce.

(e) All departments and agencies of the United States Government are directed to furnish to the Secretary of the Treasury and to the Secretary of Commerce on a regular basis such information within their control as may be pertinent to the enforcement of sections 1 through 4.

SECTION 7. ENFORCEMENT BY SECRETARY OF COMMERCE.

The Secretary of Commerce shall, within the scope of his responsibilities under this Order, issue such rules and regulations as he determines to be necessary to secure compliance with section 3(a)

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and shall take such exceptions to such section by license or otherwise, as he determines, after consultation with the Secretary of State, to be in the national interest.

SECTION 8. MAINTENANCE OF LIST BY SECRETARY OF COMMERCE.

(a) The Secretary of Commerce shall compile, keep current, and publish a list of --

(1) all vessels which have, on or after the effective date of this Order, carried any material, commodity, or cargo of any kind originating in a country or area controlled by Sino-Soviet Communism and destined for Cuba, or originating in Cuba and destined for a country or area controlled by Sino-Soviet Communism,

(2) all persons, corporations, or other associations, any one or more of which own or control, or have, on or after the effective date of this Order, owned or controlled any vessel listed pursuant to paragraph (1), and

(3) all other vessels which are owned or controlled, or have, on or after the effective date of this Order, been owned or controlled by one or more of the persons, corporations, or other associations listed pursuant to paragraph (2).

(b) (1) Whenever the Secretary of Commerce determines that any vessel listed under subsection (a)(1) has ceased to carry any cargo of any kind originating in a country or area controlled by Sino-Soviet Communism and destined for Cuba, or originating in Cuba and destined

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for a country or area controlled by Sino-Soviet Communism, or was listed for reasons beyond the control of any person, corporation, or other association presently owning or controlling such vessel, the Secretary of Commerce may, if he deems it consistent with the national interest and on such terms and conditions as he deems appropriate, remove such vessel from the list published under subsection (a)(1), any or all of the persons, corporations, or other associations owning or controlling the ship from the list published under subsection (a)(2), and any or all affiliated vessels from the list published under subsection (a)(3).

(2) Whenever the Secretary of Commerce determines that any persons, corporations, or other associations listed under subsection (a)(2) do not own or control any vessel carrying any cargo of any kind originating in a country or area controlled by Sino-Soviet Communism and destined for Cuba, or originating in Cuba and destined for a country or area controlled by Sino-Soviet Communism, the Secretary of Commerce may, if he deems it consistent with the national interest and on such terms and conditions as he deems appropriate, remove such persons, corporations, or other associations from the list published under subsection (a)(2), and any or all vessels owned or controlled by such persons, corporations, or other associations from the list published under subsection (a)(3).

(3) Any vessel removed from the list pursuant to paragraphs (1) and (2) shall be exempt from the certificate requirements of sections 5(c) and 6(a), insofar as they relate to the period of time prior to the date of removal from the list.

(c) The Secretary of Commerce shall regularly furnish the Secretary of the Treasury the list maintained under this section.

SECTION 9. REVIEW OF CERTIFICATES BY SECRETARY OF COMMERCE.

- (a) The Secretary of Commerce shall review certificates furnished pursuant to section 5(b), 5(c), and 6(a) for the purpose of determining the truth of the information on such certificates.
- (b) Upon determining the falseness of information on any certificate, the Secretary of Commerce may prohibit, by appropriate direction to the Secretary of the Treasury, any vessel owned or controlled, [at the time of the determination] on or after the date of the certificate containing the false information, by the certifying owner or charterer from entering any port of the United States for such a period, not to exceed 5 years from the date of such determination, as the Secretary of Commerce deems in the national interest. The Secretary of Commerce may, for such periods as he deems appropriate and on such terms and conditions as he may prescribe, stay the prohibition under this subsection whenever he finds it warranted.
- (c) Upon determining the falseness of information on any certificate, the Secretary of Commerce shall promptly give notification to the person or persons by whom or on whose behalf the certificate was made. Such notification shall be in writing, and shall set forth clearly and concisely the facts upon which the determination was based, and the procedures available for review thereof. Such procedures shall include the opportunity for a hearing, at which the person or persons affected by the determination shall have the right to appear, to be represented by counsel, and to present evidence. The Secretary of Commerce shall issue rules and regulations

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governing the conduct of hearings under this paragraph, which shall be held in confidence and to protect from disclosure information affecting the national security.

(d) If no hearings are held under subsection (c), or if, after such hearings, the Secretary of Commerce does not alter his determination under subsection (b), the Secretary of Commerce shall refer the matter to the Attorney General for appropriate action.

(e) The Secretary of Commerce shall compile, keep current, and publish a list of owners and charterers who he has determined have supplied false information on certificates made pursuant to sections 5(b), 5(c), and 6(a), and shall regularly furnish the Secretary of Commerce such list.

SECTION 10. PENALTIES FOR FALSE CERTIFICATES.

Any person making a certificate in accordance with the requirements of this Order or any regulations issued thereunder which contains any false, fictitious, or fraudulent statements or representations shall be subject to punishment in accordance with [applicable provisions of] title 18 of the United States Code. [Justice to check whether needed].

SECTION 11. DEFINITIONS

For purposes of this Order --

- (a) The term "cargo" shall include mail.
- (b) The term "country or area controlled by Sino-Soviet Communists" shall mean --

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Communist-controlled portions of China, Korea, and Viet-Nam

Czechoslovakia

Estonia

Hungary

[Maritime Islands]

Latvia

Lithuania

Outer Mongolia

Poland and areas under its provisional administration

Romania

[Southern Sakhalin Island]

Soviet Zone of Germany and Soviet Sector of Berlin

[Outer Tuva

Siberia

Union of Soviet Socialist Republics and areas in West Prussia under its provisional administration

(c) The term "Cuba" shall mean any territory on the island of Cuba, subject to the control of the Communist regime of Cuba, and the Isle of Pines and other adjacent islands subject to such control.

(d) The term "controlled" shall include control by means of charter parties [common ownership, control, and charters].

(e) The term "port of the United States" shall mean all ports of the continental United States, Hawaii, Alaska, Puerto Rico, the Virgin Islands, American Samoa, and Guam.

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(c) The term "registered" shall include "documented".

The term "means of war, projectiles, or military equipment" shall include firearms, artillery and projectors, ammunition, bombs, guided missiles, rockets, torpedoes, and mines, vessels of war and special naval equipment, tanks and ordnance vehicles, military aircraft and associated equipment, military training equipment, protective personnel equipment, and military electronic equipment.

SECTION 12. PRIOR DISPOSITIONS.

(a) Except as provided in subsection (b) of this section, no prior order, proclamation, regulation, ruling, directive, or other action relating to any function affected by this order, which is now in force, shall cease to be in force by reason of the issuance of this order.

(b) To the extent that any prior order, proclamation, regulation, ruling, directive, or other action relating to any function affected by this order is inconsistent with the provisions of this order, the latter shall control, and any such prior order or other instrument is amended accordingly, while this order remains in force.

SECTION 13. EFFECTIVE DATE.

The provisions of this Order shall become effective at 12:01 a.m., Eastern Standard Time, on the fifth day following the date on which it is signed.

White House, October , 1962

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